IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.688 OF 2005

Bhai Manjit Singh ...Petitioner

Vs.

Credietial Finance Ltd.
and Anr. ...Respondents

...

Mr.H.S.Shreepadmurthy Advocate for Petitioner
Mr.A.R.Shaikh Advocate for Respondent no.1.
Mr.Rajesh More A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 13, 2005

P.C.

1. Heard the learned advocate for the petitioner i.e. original accused and the learned advocate for the respondent no.1 i.e. original complainant. The petitioner is facing prosecution under Section 138 of Negotiable Instruments Act. In the said case, the respondent no.1-complainant has been examined, however, thereafter, as the accused was absent, and there were no instructions, hence, the complainant could not be cross-examined. Though thereafter, the application for recalling of

witness was allowed, the complainant was not cross-examined. Hence, the case came to be closed and it is now kept for arguments.

2. It is stated by the learned advocate for the petitioner that the petitioner is residing in Delhi and the petitioner is about 60 years of age and he is suffering from various ailments. During the intervening period, the petitioner was hospitalised on several occasions. This statement is not controverted on behalf of the respondents. The learned advocate for the petitioner has submitted that it is only on account of illness and hospitalisations that the complainant could not be cross-examined and hence, it is prayed that in the interest of justice one last chance may be given to the petitioner to cross-examine the complainant.

3. The learned advocate for the complainant has stated that the matter is kept before the trial Court on 16.6.2005. The complainant is willing to be cross-examined on that day or at the most if one other date is given by the trial Court on that date. The learned advocate for the complainant on

instructions from the complainant who is present before the Court, has fairly stated that in the interest of justice the complainant is willing to be cross-examined on 16.6.2005 or any next date thereafter as indicated by the trial Court. In the facts and circumstances of the present case and in the interest of justice, the orders dated 29.10.2004 and 28.2.2005 are set aside. The petitioner is permitted to cross-examine the complainant on 16.6.2005 or on the next date thereafter. It is made clear that if the complainant is not cross-examined on 16.6.2005 or on the very next date thereafter, no further opportunity will be granted to the petitioner to cross-examine the complainant. It goes without saying that if the complainant is cross-examined, the further statement of the petitioner under section 313 of Cr.P.C. will be recorded and thereafter the parties shall advance their arguments.

4. Petition is disposed of.

5. Authenticated copy be issued to the parties.

6. Hamdust allowed.

[V.K.TAHILRAMANI,J]